IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4274 of 2001
With
SCA No.23962 to 23979 of 2005

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT HOUSING BOARD - Petitioner(s)

Versus

CHANABHAI MULJIBHAI & 18 - Respondent(s)

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Appearance :
MR HS MUNSHAW for Petitioner(s) : 1,
MR TR MISHRA for Respondent(s) : 1,
MR UT MISHRA for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 09/01/2006

ORAL JUDGMENT

1. These petitions are directed against the award dated 30th December 2000 passed by the Labour Court, Bhavnagar, in Reference (LCB) Nos.502/89 to 520/89 whereby the

petitioner was directed to reinstate the respondents in service with full back wages.

2. The short facts emerging from the record are as under:

2.1 The petitioner Board is carrying on construction of residential houses, commercial centres and complexes throughout the State of Gujarat and it is allotting the properties on hire purchase basis. The board had constructed various residential houses and other complexes and for this purpose the petitioner had engaged certain persons for the maintenance work of the buildings. The petitioner Board later on adopted a policy decision to hand over possession of the quarters constructed to the occupants on hire purchase basis. Since the buildings were handed over to the concerned occupants, there was no question of maintaining the buildings. As a result of this, 19 workmen became surplus due to non-availability of work and funds and an order of termination came to be passed after following due procedure under the provisions of section 25-F of the Act. The respondents, therefore, raised industrial disputes, which were referred to Labour Curt and

registered as Reference (LCB) Nos.502/89 to 520/89. The Labour Court, after hearing the parties passed the aforesaid awards which are challenged in this petition.

3. Mr. Munshaw, learned counsel for the petitioner submitted that the petitioner has followed the requisite procedure under the Industrial Disputes Act. He submitted that since the expenses of the Board has gone beyond the control of the Board the respondents were declared surplus and they were paid requisite notice and retrenchment compensation. He, therefore, submitted that the impugned awards require to be quashed and set aside.

4. Mr. T.R. Mishra for the respondents submitted that the Labour Court has properly appreciated the facts and circumstances of the case and the petitioner has not followed the proper procedure before retrenching the respondents. According to Mr. Mishra the work was handed over to other agency and therefore the respondents ought to have been continued. He, therefore, submitted no case is made out to cause interference in this petition.

5. As a result of hearing and perusal of the record, it is found that the petitioner has followed the provisions

of section 25F of the Act. The respondents were given notice and notice pay. A statement is produced at Annexure-C wherein it is shown that a sum of Rs.84.40 lacs were paid to the respondents by way of compensation. In fact, in view of the fact that there was no work, the respondents were declared as surplus employees. There is nothing on record to show that juniors to the respondents were appointed in service by the petitioner and therefore there is no violation of provisions of section 25G and H. It also required to be noted that it was conveyed to the respondents that as and when the services of employees are required, they will be called for work on seniority basis. As regards the contention that the work was given to the contractor is concerned, this Court or Labour Court cannot go into the aspect of handing over the work to other agency. I am, therefore of the opinion that the Labour Court has committed an error in holding that the petitioner has committed provisions of the Act. The impugned awards have been passed on an erroneous presumption and therefore the same are required to be quashed and set aside.

6. In the premises aforesaid, these petitions are allowed. The impugned awards are quashed and set aside.

Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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